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# Couple, UMDNJ reach settlement

## \$2.4 million award in genetic defect case

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STAR-LEDGER STAFF

An East Brunswick couple who sued the University of Medicine and Dentistry of New Jersey for failing to detect genetic defects in prenatal tests of their son two decades ago have agreed to a \$2.4 million settlement with the hospital.

Lucy Moscatello, 51, said the money will be used to provide constant care for her 20-year-old son, John Moscatello Jr., who cannot speak, feed himself or walk without help.

"It allows us to know our son's future is assured," Moscatello said yesterday. "My fear has always been that if something happened to my husband or myself, what would become of him? The thought of my son being institutionalized is not pleasant."

In the "wrongful life" lawsuit filed on John Moscatello Jr.'s behalf, his attorney, Bruce Nagel of Livingston, argued John Jr. should not have been born.

"His parents should have been  
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## UMDNJ

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told of the genetic defect and been given the option to terminate the pregnancy," said Nagel, of the firm Nagel Rice Dreifuss & Mazie.

Lucy Moscatello said that while she and her husband, John, a letter carrier, love their son deeply and would do anything for him, she would not have carried her pregnancy to term if they knew she had passed on a genetic defect to him. "But I wasn't given an opportunity at the time to make that decision," said Moscatello, a stay-at-home

mom who also has a 22-year-old daughter and 13-year-old son.

The Moscatellos filed the lawsuit five years ago in Middlesex County, and it was dismissed. An appellate court later ruled that only John Jr. had the right to recover damages for his condition.

The court said that a child such as John Jr. — born with genetic problems that could have been detected through an ultrasound or other prenatal tests — has the right to file suit to recover the costs of his extraordinary care.

The \$2.4 million settlement, approved late Monday by Superior Court Judge Yolanda Ciccone in

New Brunswick, was based on John Jr.'s projected life needs.

Short Hills attorney Stewart Leviss, who represented the hospital, said UMDNJ did not admit any liability or wrongdoing in the settlement. "This settlement will ensure that John Jr.'s future medical needs are taken care of," said Leviss, of the firm Budd Lerner Gross Rosenbaum Greenberg & Sade.

After Lucy Moscatello suffered three miscarriages in the late 1970s, she and her husband went for genetic tests at UMDNJ and were found to be "normal," according to her attorney. In 1980, they had a healthy daughter, and two years later, John Jr. was born severely

handicapped.

The infant was transferred to a specialty unit at Columbia Presbyterian Hospital in New York, where doctors found a genetic defect in the mother's chromosome that experts believed should have been discovered earlier by the physicians at UMDNJ. The couple first pursued the case two years after John Jr.'s birth but were unsuccessful.

John Jr. attends the Lakeview School for disabled children, but he will graduate from the Edison school next year and require full-time care. For now, Lucy relies on a home health aide, paid for by John Jr.'s Medicaid coverage, to help after school and at night.

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